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EXAMINER

GRAYSAY, TAMARA L

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/680,127

Applicant(s)

MIYOSHI, ETSUO

Examiner

Tamara L. Graysay

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date (2 pages).
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the casters fixed at four corners of the horizontal loading table in combination with protruding sections at the side where the vertical rods are fixed and casters disposed on the protruding section, as recited in claims 15-21, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 15 is objected to because of the following informalities: at line 16, it appears that the verb [are] should be is because the horizontal loading table is singular.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is indefinite because the second, third, and fifth subparagraphs are inconsistent and confusing. The second and third subparagraph reads that the horizontal loading table is a rectangular shape and casters fixed at four corners of a lower face of the horizontal loading table. The fifth subparagraph reads that the horizontal loading table *is* provided with protruding sections for fixing the casters at the side where the vertical rods are fixed. The recitation of “the casters” at the fifth subparagraph is not related to the previously recited casters at the four corners. Therefore, the claim is unclear whether the casters are fixed at the four corners of the table as recited in the second and third subparagraphs, or whether there are two casters on one side of the rectangular table and two casters at the protruding sections, or whether there are casters at the four corners of the table and two casters at the protruding sections.

Similarly, claim 19 makes reference to the casters fixed at both sides of the table, without reference to the protruding sections, thereby rendering the claim indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5-9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyoshi (US-5908093) in view of Pfeiffer (DE-10033698-A1).

Regarding claims 1 and 5, Miyoshi teaches a stick main body having a grip (53A) and extensible vertical rods (55B, 55C) connected to both ends of the grip (53A); a bag (26 and 54B in FIG. 5) attached to the internal or external face of the bag; casters (51) provided at the four corners of the rectangular plan view of the device (4:37-42); the lower end sections (55B) of the vertical rods are fixed at the long side of the rectangular plan view of the device. The vertical rods are curved from the one long side toward a direction placing the grip at a center section (FIG. 5, 6:48-51).

Miyoshi is silent as to the size of the casters. However, when the Miyoshi bag is supported on the casters it is pushed in the longitudinal direction using the grip when in its extended position (for example 5:48-52) and can be used as a walking stick. Therefore, the size of the casters would be a matter of design choice and the within the level of ordinary skill in the art of wheeled walking sticks. Since the Miyoshi device is used for the same purpose as the present invention, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the casters 30-60 mm in diameter in order to allow the casters to roll freely while using the bag as a walking stick.

Further, Miyoshi lacks a horizontal loading table. However, Miyoshi depicts an embodiment where a horizontal member or table separates the bag from the casters (for example in FIG. 4 between the casters 21 and the bag 26) and mentions an embodiment where the vertical rods are attached to the exterior of the bag (for example 5:23-25). Pfeiffer teaches a wheeled bag having the bag (20) detachably attached (13, 14, 16, 17, 22, 23, 26) on the horizontal loading table (18). Such an arrangement permits replacement of a worn bag. Therefore, it would have been obvious to modify Miyoshi to include a detachably attached bag rather than having the casters attached directly to the bag, in order to permit replacement of a worn bag.

Regarding claim 2, the use of plastic in lieu of the material used in the references solves no stated problem and would have been an obvious matter of design choice within the skill of the art at the time the invention was made. In this particular case, a plastic horizontal table would reduce the weight of the device. [... we agree with the board that the limitation of the "metallic wrapping," which is really a lining of the tube, presents no novel or unexpected result over the metallic connections used in the references. Use of such a means of electrical connection in lieu of those used in the references solves no stated problem and would be an obvious matter of design choice within the skill of the art. In re Launder, 42 CCPA 886, 222 F.2d 371, 105 USPQ 446 (1955); Flour City Architectural Metals v. Alpana Aluminum Products, Inc., 454 F. 2d 98, 172 USPQ 341 (8th Cir. 1972); National Connector Corp. v. Malco Manufacturing Co., 392 F.2d 766, 157 USPQ 401 (8th Cir.) cert. denied, 393 U.S. 923, 159 USPQ 799 (1968).]

Regarding claim 6, the height of the Miyoshi grip is 60-100 cm (6:24-30).

Regarding claim 7, stoppers stop the vertical rods (for example 511 in FIG. 8; 5:45-48).

Regarding claims 8 and 12, Miyoshi teaches a stick main body having a grip (113A) and extensible vertical rods (115) connected to both ends of the grip (113A); a bag (114 in FIG. 11) attached to the internal or external face of the bag; casters (111) provided at the four corners of the rectangular plan view of the device (FIG. 11); the lower end sections (115A) of the vertical rods (115) are fixed at the long side of the rectangular plan view of the device. The vertical rods are tilted from the one long side toward a direction placing the grip at a center section (FIG. 11, 7:17-22).

Miyoshi is silent as to the size of the casters. However, when the Miyoshi bag is supported on the casters it is pushed in the longitudinal direction using the grip when in its extended position (for example 5:48-52) and can be used as a walking stick. Therefore, the size of the casters would be a matter of design choice and the within the level of ordinary skill in the art of wheeled walking sticks. Since the Miyoshi device is used for the same purpose as the present invention, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the casters 30-60 mm in diameter in order to allow the casters to roll freely while using the bag as a walking stick.

Further, Miyoshi lacks a horizontal loading table. However, Miyoshi depicts an embodiment where a horizontal member or table separates the bag from the casters (for example in FIG. 4 between the casters 21 and the bag 26) and mentions an embodiment where the vertical rods are attached to the exterior of the bag (for example 5:23-25). Pfeiffer teaches a wheeled bag

Art Unit: 3623

having the bag (20) detachably attached (13, 14, 16, 17, 22, 23, 26) on the horizontal loading table (18). Such an arrangement permits interchanging different sized bags and/or replacement of a worn bag. Therefore, it would have been obvious to modify Miyoshi to include a detachably attached bag rather than having the casters attached directly to the bag, in order to permit interchanging different sized bags and/or replacement of a worn bag.

Regarding claim 9, the use of plastic in lieu of the material used in the references solves no stated problem and would have been an obvious matter of design choice within the skill of the art at the time the invention was made. In this particular case, a plastic horizontal table would reduce the weight of the device. [... we agree with the board that the limitation of the "metallic wrapping," which is really a lining of the tube, presents no novel or unexpected result over the metallic connections used in the references. Use of such a means of electrical connection in lieu of those used in the references solves no stated problem and would be an obvious matter of design choice within the skill of the art. In re Launder, 42 CCPA 886, 222 F.2d 371, 105 USPQ 446 (1955); Flour City Architectural Metals v. Alpana Aluminum Products, Inc., 454 F. 2d 98, 172 USPQ 341 (8th Cir. 1972); National Connector Corp. v. Malco Manufacturing Co., 392 F.2d 766, 157 USPQ 401 (8th Cir.) cert. denied, 393 U.S. 923, 159 USPQ 799 (1968).]

Regarding claim 13, the height of the Miyoshi grip is 60-100 cm (6:24-30).

Regarding claim 14, stoppers stop the vertical rods (for example 511 in FIG. 8).

Art Unit: 3623

5. Claims 3, 4, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyoshi (US-5908093) and Pfeiffer (DE-10033698-A1) as applied to claims 2 and 9 respectively above, and further in view of Galichowski (US-6024376).

Golichowski teaches the use of a plastic horizontal table (13) having lengthwise and crosswise ribs on the lower face of the table (see FIG.9). Such an arrangement provides strength and support for items placed on the table. The outermost vertical walls of the table (13) are connected to connection pipes (FIG.6), as broadly recited.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Miyoshi and Pfeiffer combination, as applied to claims 2 and 9 above, to include a plastic horizontal table (13) having lengthwise and crosswise ribs on the lower face of the table, such as taught by Golichowski, in order to provide strength and support for items placed on the horizontal table.

Allowable Subject Matter

6. Claim 15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. Claims 16-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Miyoshi (US-5762168) (FIG. 11, 12) teaches a bag (115) detachably fixed to a horizontal table (1122, 1123), and casters (111) at the corners of the table. Further, Miyoshi (FIG. 9, 10) teaches a stick main body (97) having a horizontal grip (93A) connected to extensible vertical rods (93B).
- Warner (US-3522955) (FIG. 1) teaches a horizontal grip 21 connected to vertical rods (22, 22'). Further, Warner (FIG. 16-18) teaches a grip (107) connected to vertical rods (105, 106) at the center of a table (111, 112) with casters at each side rather than the corners.
- Tsai (US-5806143) teaches a horizontal grip (10) and extensible vertical rods (20, 30, 40) connected at both ends of the grip.
- Russell (US-4032165) teaches a support (30) between the vertical rods (14) and the horizontal table (20).
- Nelson (US-4165088) teaches a horizontal table (deck 10) integrally formed of plastic with ribs extending lengthwise and crosswise (see FIG.2 15, 18) in the form of walled apertures on the upper face.
- Young (US-6032966) teaches the use of projections (23') extending from the longitudinal side (24) where the tilted vertical rods (29) are attached to the lower support member (23) of the castered device.

Art Unit: 3623

- Picat-Bricaud (FR-2612476) teaches a stick main body having a grip (5), a horizontal loading table (7 comprised of a horizontal member extending between the caster mounts), a bag detachably attached on the horizontal loading table (the bag 2 is hooked on the hook 6 and “detachably rests on the member 7 as depicted in Figures 1, 2, and 4), casters (3) provided at each corner of the horizontal table (comprised of the three chassis members 1), the lower section of the grip vertical rod (4) is fixed to the table (1) via a bracket (7).
- Andre (FR-2696929) teaches a wheeled walking stick having a table and casters.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (571) 272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tamara L. Graysay
Examiner
Art Unit 3623

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